



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY



सं. 18
No. 18

नई दिल्ली, बुधवार, अगस्त 2, 1996 / श्रावण 11, 1918 (सक)

NEW DELHI, WEDNESDAY, AUGUST 2, 1996 / SRAVANA 15, 1918 (Saka)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 2nd August, 1996:—

BILL No. 40 OF 1996

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1996. Short title.
2. In article 269 of the Constitution, in clause (1), after sub-clause (f), the following sub-clause shall be inserted, namely:— Amendment of article 269.
“(fa) taxes on advertisements broadcast by radio or television;”.
3. In article 270 of the Constitution, in clause (4), for sub-clause (a), the following sub-clause shall be substituted, namely:— Amendment of article 270.
“(a) “taxes on income” includes a corporation tax;”.
4. For article 271 of the Constitution, the following article shall be substituted, namely:— Substitution of new article for article 271.
“271. Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge and such percentage of the net proceeds in any financial year of any surcharge on any duty or tax, as may be prescribed, shall be distributed among the States in such manner as may be recommended by the Finance Commission constituted under article 280.” Surcharge on certain duties or taxes to be distributed between the Union and the States.

Insertion of
new article
272 A.

5. After article 272 of the Constitution of India, the following article shall be inserted, namely:—

Customs duty
to be
distributed
between the
Union and the
States.

“272A. Custom duty shall be levied and collected by the Government of India and such percentage of the net proceeds of such duty shall be distributed among all the States in such manner as Parliament may by law determine.”

Substitution of
new article for
article 280.

6. For article 280 of the Constitution, the following article shall be substituted, namely:—

Finance
Commission.

“280. (1) The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary, by order constitute a Finance Commission.

(2) The Commission shall consist of,

(a) a Chairman to be appointed by the President;

(b) one representative from each State to be nominated by the Governor of that State; and

(c) such number of experts from various fields as may be appointed by the President.

(3) Parliament may by law determine the qualifications which shall be requisite for appointment as members of the Commission and the manner in which they shall be selected.

(4) It shall be the duty of the commission to make recommendations to the President as to,—

(a) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of respective shares of such proceeds;

(b) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India;

Provided that the Commission shall, while making recommendations under sub-clauses (a) and (b), take into consideration the regional disparities;

(c) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State;

(d) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State;

(e) any other matter referred to the Commission by the President in the interests of sound finance.

(5) The Commission shall submit its recommendations to the President within a period of one year from the date of its constitution.

(6) The Commission shall determine its procedure and shall have such powers in the performance of its functions as Parliament may by law confer on it.”

Amendment of
Seventy
Schedule.

7. in the Seventh Schedule to the Constitution, in List I-Union list, after entry 92, B, the following entry shall be inserted, namely:—

“92C. Taxes on advertisements broadcast by radio or television”.

STATEMENT OF OBJECTS AND REASONS

The resources allocated to the States, under the present dispensation, are not adequate to enable them to discharge their responsibilities.

The resources of States are relatively inelastic. The tax-base is also very narrow. Sales tax alone, and to a lesser extent, State excise duties, exhibit some degree of elasticity, which, again hurts the interests of the common man.

The Constitution has assigned to the States the responsibility for building up vital social and industrial infrastructure, which is an essential pre-requisite for rapid socio-economic development. The States are responsible for rural development, education, medical and public health facilities, welfare of Scheduled Castes and Scheduled Tribes, etc. Further, they have to spend large sums on the development of roads, generation and distribution of power, etc. which are essential for industrial development. These responsibilities, particularly the creation of social infrastructure, involve large investments which do not yield immediate or direct returns. The maintenance cost of the social and economic infrastructure has also increased by leaps and bounds. Apart from that the expenditure, on non-developmental activities like maintenance of law and order has also increased enormously, particularly in the wake of emergence of fissiparous tendencies and divisive forces. Over the years the general administrative costs have risen steadily and they form a large part of the states expenditure. Continuing inflation has made the situation worse. Faced with high cost of administration and inflation, the gap between the resources and needs of the States continue to widen, resulting in dependence of the States on the Centre indicating the built in weaknesses in the existing system. There is, therefore, an urgent need to remove the weaknesses in financial relations between the Union and the States.

It is felt that there is a need to restructure the financial relations between the Union and States in order to (a) enable the States to discharge their responsibilities properly, and (b) to ensure correspondence between their obligations and resources.

The Bill seeks to achieve the above objectives.

NEW DELHI;
June 13, 1996.

CHITTA BASU

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides that experts from various fields shall also be associated with the Union Finance Commission. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India in respect of additional expenditure to be incurred regarding salaries and allowances to experts, etc. It is estimated that an annual expenditure of about rupees three lakh is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one lakh is also likely to be involved.

BILL No. 41 OF 1996

A Bill to provide for free and compulsory education upto higher secondary level to all children through out the country and for matters connected therewith.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Education Act, 1996.

Short title and
extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,—

Definitions

(a) “appropriate Government” means the Central Government or the State Government, as the case may be;

(b) “child” means a boy or a girl who has attained the age of five years;

(c) “parent” in relation to any child includes a guardian or any person who has the actual custody of child or is responsible for the welfare of the child; and

(d) “school” includes a school run or aided by the appropriate Government or registered with the appropriate Government.

Free and compulsory education.

3. The appropriate Government shall provide free and compulsory education to every child upto higher secondary level.

Responsibility of parents.

4. It shall be the responsibility of every parent to get his child admitted to a school for receiving education and the parent shall not in any manner restrain the child from attending the school till he completes his education upto the higher secondary level.

Employment not to obstruct education of children.

5. No person shall employ a child in such a job which prevents the child from attending school for receiving education.

Parent and School to ensure attendance of the child in school.

6. It shall be the responsibility of every parent and the head of the school, by whatever name he is called, to ensure the attendance of the child in the school on each working day:

Provided that if due to any reason the child is unable to attend school for any period, the parent of the child may, in writing, explain the reasons for the absence of the child from the school, to the head of the institution for such period:

Provided further that if the head of the school is not satisfied with the reasons given by the parent for the absence of the child from school, he may cause an investigation.

Maintenance of attendance details of each child.

7. Every school shall maintain the attendance details of each child and shall forward the same to the appropriate Government once in every two months.

Special coaching for students.

8. Every school shall arrange for special coaching for those students who are weak in studies.

Steps to encourage and ensure compulsory education.

9. The appropriate Government shall take such steps as may be deemed necessary to encourage and ensure compulsory education to every child and it shall be obligatory for every school under its jurisdiction to carry out such directions.

Provisions of assistance for pursuing education.

10. The appropriate Government shall provide all necessary assistance to a child whose parent cannot afford the education of the child in order to enable him to pursue his education.

Punishment.

11. (1) If any school does not comply with the provisions of this Act, the head of the school or any other person responsible for the management of the school shall be punished with imprisonment for a term not exceeding one year and with fine not exceeding rupees ten thousand.

(2) Any Parent who does not admit his child in a school or prevents, restrains or otherwise obstructs the child from receiving education, shall be liable to imprisonment for a term not exceeding one year in the first instance and shall be liable to imprisonment for a term not exceeding two years and with fine not exceeding five thousand rupees in every sub-current instance.

(3) If any person contravenes the provisions of section 5 of this Act, he shall be liable to imprisonment for a term not exceeding two years and with fine not exceeding rupees ten thousand.

Power to make rules.

12. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Education is the basis for a decent and dignified life. In our country, education has never been given importance. Till today a very low percentage of the population has had the opportunity to get education and majority of the population has never attended any school.

Poverty and ignorance are the two major reasons for the mass illiteracy. Due to poor financial conditions, parents are not able to afford the education of their children. Instead, children are made to do menial jobs and the meagre income earned by them are pocketed by the parents. Some of the parents, although financially sound, do not send their children to schools due to ignorance and negligence.

The Government has been taking steps to encourage attendance of children in schools by introducing many schemes like free noon meals, etc. But the parents just to get all the facilities offered by the schools, admit their children in school for name-sake and they never ensure compulsory attendance of their wards. Even schools are not bothered about the attendance of the students.

Every child has a fundamental right to education. It is the duty of every parent, school and the State to encourage the children for pursuing education and ensure their attendance in the schools to achieve this end.

At present, there is no law to ensure compulsory education and to punish those responsible for not giving education to their children. With this in view, it is proposed to bring forward a law to provide for free and compulsory education and also to ensure it in every possible way.

The Bill seeks to achieve the above objective.

NEW DELHI;
13 June, 1996.

CHITTA BASU

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for provision of free and compulsory education to every child upto higher secondary level. Clause 10 provides for provision of necessary assistance to every child whose parent cannot afford his education. Therefore, the Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees one hundred crore per annum will be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees fifty crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to the matters of detail only. The delegation of legislative power is, therefore, of normal character.

BILL NO. 46 OF 1996

A Bill to provide for the appointment of a Lokpal to inquire into allegations of misconduct against public men and public servants and for matters connected therewith.

BE it enacted by Parliament in the Forty-Seventh Year of the Republic of India as follows:—

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Lokpal Act, 1996.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In this Act, unless the context otherwise requires,—

(a) “competent authority”, in relation to a complaint against a public man, means the competent authority in relation to such complaint determined in accordance with the provisions of sub-section (2) and the rules made thereunder;

(b) “complaint” means a complaint alleging that a public man has, while holding any of the offices referred to in clause (h), committed misconduct;

(c) “complaint against a legislator” means a complaint alleging misconduct by a person who, at the time of the alleged commission of such misconduct was a Member of Parliament without being a member of the Council of Ministers for the Union or a Member of the Legislative Assembly of a State or a Union territory without being a member of the Council of Ministers for such State or Union territory;

(d) “corruption” means and includes—

(i) any act punishable under Chapter IX of the Indian Penal Code or the Prevention of Corruption Act, 1988;

(ii) abetment of any of the acts mentioned in sub-clause (i);

(iii) intentional concealment of acts mentioned in sub clauses (i) and (ii) by any other public man; and

(iv) any conduct which in the opinion of the Lokpal does not conform to the standards of fairness of integrity reasonably expected of the public man concerned in his character as a public man;

Explanation.—Acts or conduct amounting to ‘corruption’ shall be such whether committed before or after the coming into force of this Act.

(e) “Lokpal” means a person appointed under section 4 as the Lokpal and, where a Special Lokpal is appointed under section 8 for exercising jurisdiction in relation to any of complaints, includes, for the purpose of such complaints or classes of complaints, such Special Lokpal;

(f) “misconduct” means misconduct (whether committed before or after the commencement of this Act or within or outside India) of the nature specified in section 3;

(g) “prescribed” means prescribed by rules made under this Act;

(h) “public man” means a persons who holds or has held the office of—

(i) a member of the Council of Ministers for the Union;

(ii) a member of either House of Parliament;

(iii) a member of the Council of Ministers for a Union territory;

(iv) a member of the Legislative Assembly for any Union territory;

(v) the Mayor of a Municipal Corporation in any Union territory;

(i) “public servant” shall have the same meaning as in section 21 of the Indian Penal Code.

(2) The competent authority in relation to a complaint under this Act shall be determined in accordance with the provisions of the Table below with reference to the office held by the public man against whom such complaint is made at the time of commission of the misconduct alleged to have been committed by such public man:

Provided that where during the period in which any misconduct is alleged to have been committed by a person in a complaint, and such public man holds different offices successively, the competent authority shall be determined with reference to the last office held by him during that period.

45 of 1860.
49 of 1988.

45 of 1860.

THE TABLE

Sl. No.	Office	Competent authority
1.	Prime Minister	The Speaker of the House of the people.
2.	Any other Member (including a Deputy Minister) of the Council of Ministers for the Union.	Joint Committee of the two Houses of Parliament entrusted with powers to make recommendations of penalties on similar other measures to the appropriate executive authority.
3.	Member of Parliament who is not a Member of the Council of Ministers for the Union.	The Chairman of the Council of States in the case of a Member of that Council and Speaker of the house of the People in the case of a Member of that House and, where the complaint is against such Speaker, the Deputy Speaker of the House of the People.
4.	Chief Minister of a State or Union territory.	Joint Committee of the two Houses of Legislature/ Legislative Assembly, as the case may be, with powers to make recommendations of penalties on similar other measures to the appropriate executive authority.
5.	Member of the Legislative Assembly for any Union territory who is not a member of the Council of Ministers for the Union territory.	The Speaker of the Legislative Assembly and where the complaint is against such Speaker, the Deputy Speaker of the Legislative Assembly.
6.	Any other office.	Such Authority as may be prescribed.

Misconduct by
a public man.

3. (1) A public man, other than a legislator, commits misconduct—

(a) if he is actuated in the discharge of his functions as such public man by corrupt motives; or

(b) if he abuses, or attempts to abuse, or knowingly allows to be abused, his position as such public man for securing for himself or for any of his relatives or associates, directly or indirectly, any valuable thing or pecuniary advantage; or

(c) if any act or omission by him constitutes corruption.

(2) A legislator commits misconduct if he abuses or attempts to abuse, or knowingly allows to be abused, his position as such legislator for securing for himself or for any of his relatives or associates, directly or indirectly, any valuable thing or pecuniary advantage.

(3) A public man who abets, or conceals or attempts to conceal from detection, the commission of misconduct of the nature specified in sub-section (1) or sub-section (2), also commits misconduct.

Explanation.—For the purpose of this section,—

(a) “associate” in relation to a public man includes any person in whom such public man is interested;

(b) "legislator" means a person who is Member of Parliament without being a member of the Council of Ministers for the Union or a Member of the Legislative Assembly for a Union territory without being a Member of the Council of Ministers for such Union territory;

(c) a person shall be deemed to be relative of another if, and only if,—

(a) they are member of a Hindu undivided family; or

(b) they are husband and wife; or

(c) the one is related to the other in the manner indicated below:—

1. Father
2. Mother (including step-mother).
3. Son (including step-son)
4. Son's wife.
5. Daughter (including step-daughter).
6. Son's son.
7. Son's daughter.
8. Daughter's husband
9. Daughter's son.
10. Brother (including step-brother).
11. Sister (including step-sister).

MACHINERY FOR INQUIRIES

4. (1) For the purpose of making inquiries in respect of complaints under this Act, the President shall, after consultation with the Chief Justice of India, the Chairman of the Council of States and the Speaker of the House of the People, appoint, by warrant under his hand and seal, a person to be known as the Lokpal:

Appointment of Lokpal.

Provided that, before expressing his views, the Chairman of the Council of States or the Speaker of the House of the People may consult the leaders of the various Parties and Groups in the Council of States or, as the case may be, the House of the People.

(2) Every person appointed as the Lokpal shall, before entering upon his office, make and subscribe before the President, or some person appointed in that behalf by the President, on oath or affirmation in the form set out in the Schedule.

5. The Lokpal shall not be a Member of Parliament or a Member of the Legislature of any State and shall not hold any office of trust or profit (other than his office as Lokpal), or be connected with any political party, or carry on any business, or practise any profession, and accordingly before he enters upon his office, a person appointed as the Lokpal shall,—

Lokpal to be ineligible to hold other offices.

(a) if he is a Member of Parliament or of the Legislature of any State, resign such membership; or

(b) if he holds any office of trust or profit, resign from such office; or

(c) if he is connected with any political party, sever his connection with it; or

(d) if he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or

(e) if he is practising any profession, cease to practise such profession.

6. (1) A person appointed as the Lokpal shall hold office for a term of five years from the date on which he enters upon his office :

Term of office and other conditions of service of Lokpal.

Provided that—

(a) the Lokpal may, by writing under his hand addressed to the President, resign his office;

(b) the Lokpal may be removed from his office in the manner provided in section 7.

(2) On ceasing to hold office, the Lokpal shall be ineligible for further employment to any office of profit under the Government of India or the Government of a State.

(3) There shall be paid to the Lokpal in respect of time spent on actual service salary at the rate of ten thousand rupees per mensem:

Provided that if the Lokpal is, at the time of his appointment, in receipt of a pension (other than a disability pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of service as the Lokpal shall be reduced—

(a) by the amount of that pension; and

(b) if he has, before such appointment, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension; and

(c) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by equivalent of that gratuity.

(4) The Lokpal shall be entitled without payment of rent to the use of an official residence.

(5) The allowances and pension payable to, and other conditions of service of, the Lokpal shall be such as may be determined by the President having regard to the allowance and pension payable to, and other conditions of service of, the Chief Justice of India:

Provided that the allowances and pension payable to, and other conditions of service of Lokpal shall not be varied to his disadvantage after his appointment.

Removal of Lokpal.

7. (1) The Lokpal shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.

(2) The procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of the Lokpal under sub-section (1) shall be as provided in the Judges (Inquiry) Act, 1968, in relation to the removal of a Judge and, accordingly, the provision of that Act shall, subject to necessary modifications, apply in relation to the removal of the Lokpal as they apply in relation to the removal of a Judge.

51 of 1968.

Special Lokpals.

8. (1) Notwithstanding anything contained in section 4, if the President is satisfied on a report from the Lokpal that it is necessary so to do for the expeditious disposal of complaints under this Act, he may, after consultation with the Chief Justice of India, the Chairman of the Council of States and the Speaker of the House of the People, appoint, by warrant under his hand and seal, one or more persons to be a Special Lokpal or Special Lokpals for exercising jurisdiction in relation to such complaints or such classes of complaints under this Act as may be specified in the warrant:

Provided that, before expressing his views, the Chairman of the Council of States or the Speaker of the House of the People may consult the leaders of the various Parties and Groups in the Council of States or, as the case may be, the House of the People.

(2) A Special Lokpal shall hold office for a term of five years or for such shorter term as may be specified in the warrant of his appointment and a Special Lokpal appointed for a term of less than five years shall be eligible for re-appointment:

Provided that the total period for which a person may hold the office of Special Lokpal shall in no case exceed five years.

(3) Save as otherwise expressly provided in this Act, the provisions of this Act relating to the Lokpal, including the provisions relating to the oath or affirmation to be made by the Lokpal, the ineligibility of the Lokpal to hold other offices, the

conditions of service of the Lokpal and removal of the Lokpal, the functions, powers and duties of the Lokpal, shall apply in relation to a Special Lokpal as they apply in relation to the Lokpal but nothing in this sub-section shall be construed to enable a Special Lokpal to exercise jurisdiction in relation to any complaint or class of complaints not specified in the warrant by which he was appointed.

9. (1) The Lokpal shall appoint a Secretary and such other officers and employees as may be prescribed to assist him in the discharge of his functions (including verification and inquiries in respect of complaints) under this Act.

Staff of Lokpal.

(2) Without prejudice to the provisions of sub-section (1), the Lokpal may, for the purpose of dealing with any complaints or any classes of complaints, secure—

(i) the services of any officer or employee or investigating agency of the Central Government or a State Government with the concurrence of that Government; or

(ii) the services of any other person or agency.

(3) The terms and conditions of service of the officers and employees referred to in sub-section (1) and of the officers, employees, agencies and persons referred to in sub-section (2) (including such special conditions as may be considered necessary for enabling them to act without fear in the discharge of their functions) shall be such as may be prescribed in consultation with the Lokpal.

(4) In the discharge of their functions under this Act, the officers and employees referred to in sub-section (1) and the officers, employees, agencies and persons referred to in sub-section (2) shall be subject to the exclusive administrative control and direction of the Lokpal.

(5) The officers and employees referred to in sub-section (1) and the officers, employees, agencies and persons referred to in sub-section (2) shall also assist the Special Lokpals (if any) in the discharge of their functions.

JURISDICTION AND PROCEDURE IN RESPECT OF INQUIRIES

10. (1) Subject to the other provisions of this Act, the Lokpal may inquire into any matter involved in, arising from, or connected with, any allegation of misconduct against a public man made in a complaint under this Act.

Jurisdiction of Lokpal.

(2) The Lokpal may inquire into any act or conduct of any person other than a public man in so far as he considers it necessary so to do for the purpose of his inquiry into any allegation of misconduct against a public man:

Provided that the Lokpal shall give such person a reasonable opportunity of being heard and to produce evidence in his defence.

(3) No matter in respect of which a complaint may be made under this Act shall be referred for inquiry under the Commission of Inquiry Act, 1952, except on the recommendation or with the concurrence of the Lokpal.

60 of 1952.

11. (1) The Lokpal shall not inquire into any matter concerning any person if he has any bias in respect of such matter or person and if any dispute arises in this behalf, the President shall, on an application made by the party aggrieved obtain, in such manner as may be prescribed, the opinion of the Chief Justice of India and decide the dispute in conformity with such opinion.

Matters not subject to jurisdiction of Lokpal.

(2) The Lokpal shall not inquire into any matter which has been referred for inquiry under the Commission of Inquiry Act, 1952, on his recommendation or with his prior concurrence.

60 of 1952.

(3) The Lokpal shall not inquire into any allegation of misconduct against a public man if the complaint in respect thereof is made after the expiry of five years from the date on which the misconduct is alleged to have been committed:

Provided that the Lokpal may entertain such a complaint if the complainant satisfies him that he had sufficient cause for not making the complaint within the said period of five years.

Complaints.

12. (1) Any person other than a public servant may make a complaint under this Act to the Lokpal.

Explanation.— For the purposes of this sub-section public servant means,—

(a) any person who is a member of Defence service or of a civil service of the Union or a State or of an all India service or holds any post connected with Defence or any civil post under the Union or a State;

(b) any person in the service or pay of a local authority, a corporation established by or under a Central or State Act or a Government company, as defined in section 617 of the Companies Act 1956.

1 of 1956.

(2) Notwithstanding anything contained in sub-section (1), a complaint against a legislator shall be made to the competent authority (hereinafter in this section referred to as the appropriate authority) concerned and that authority may, having regard to the nature of the allegations made in the complaint, the provisions of article 105 of the Constitution or, as the case may be, section 16 of the Government of Union Territories Act, 1963 and all the circumstances of the case, refer the complaint to the Lokpal, or deal with, or make orders for dealing with, the complaint in such manner as that authority may deem fit.

20 of 1963.

(3) The complaint shall be in the prescribed form and shall set forth particulars of the misconduct alleged and shall be accompanied by an affidavit in support of the allegations of misconduct and the particulars thereof and a certificate in the prescribed form in respect of the deposit made under sub-section (4) or, if the complainant is unable to make the deposit, an application for exemption from the requirement as to such deposit.

(4) The complainant shall deposit in such manner and with such authority or agency as may be prescribed a sum of rupees one thousand to be available for disposal under section 24:

Provided that the Lokpal or, as the case may be, the appropriate authority may for sufficient cause to be recorded in writing exempt a complainant from the requirement of making the deposit under this sub-section.

(5) Notwithstanding anything contained in sub-sections (1), (2), (3) and (4), any letter written to the Lokpal or, as the case may be, the appropriate authority by a person in any jail or other place of custody or in any asylum or other place for insane persons may, if the Lokpal or, as the case may be, the appropriate authority is satisfied that it is necessary so to do, be treated as a complaint made in accordance with the provisions of this section.

(6) Notwithstanding anything contained in sub-sections (1) and (2), it shall be the duty of a police officer or other person in-charge of any jail or other place of custody or of any asylum or other place for insane persons to forward, without opening, any letter addressed to the Lokpal or the appropriate authority by a person imprisoned or detained in such jail, place or custody, asylum or other place, to the Lokpal or the appropriate authority without delay.

Preliminary
scrutiny of
complaints by
Lokpal.

13. (1) If the Lokpal is satisfied, after considering a complaint and after making such verification as he deems appropriate,—

(a) that the complaint is not made within the period of five years specified in sub-section (3) of section 11 and that there is no sufficient cause for entertaining the complaint; or

(b) that he cannot make an inquiry in respect of the complaint by reason of the provisions of sub-sections (1) or (2) of section 11; or

(c) that the complaint is frivolous or vexatious or is not made in good faith; or

(d) that there are no sufficient grounds for inquiring into the complaint, the Lokpal shall dismiss the complaint after recording his reasons therefor and communicate the same to the complainant and to the competent authority concerned.

(2) The procedure for verification in respect of a complaint under sub-section (1) shall be such as the Lokpal deems appropriate in the circumstances of the case and in particular the Lokpal may, if he deems it necessary so to do, call for the comments of the public man concerned.

14. (1) If, after the consideration and verification under section 13 in respect of complaint, the Lokpal process to conduct any inquiry, he—

Procedure in respect of inquiries.

(a) shall forthwith forward a copy of the complaint to the competent authority concerned;

(b) may make such orders as to the safe custody of documents relevant to the inquiry as he deems fit;

(c) shall, at such time as he considers appropriate, forward a copy of the complaint to the public man concerned and afford him an opportunity to represent his case.

(2) Every such inquiry shall, unless the Lokpal, for reasons to be recorded in writing, determines otherwise, be conducted in camera:

Provided that an inquiry in respect of a complaint against a legislator shall be conducted only in camera.

(3) Save as aforesaid, the procedure for conducting any such inquiry shall be such as the Lokpal considers appropriate in the circumstances of the case.

15. (1) Subject to the provisions of this section, for the purpose of any inquiry (including the verification under section 13), the Lokpal—

Evidence.

(a) may require any public servant or any other person, who in his opinion is able to furnish information or produce documents relevant to such inquiry, to furnish any such information or produce any such document;

(b) shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

5 of 1908.

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) requiring the discovery and production of any document;

(iii) receiving evidence on affidavits;

(iv) requisitioning any public record or copy thereof from any court or office;

(v) issuing commissions for the examination of witnesses or documents; and

(vi) such other matters as may be prescribed.

45 of 1860.

(2) A proceeding before the Lokpal shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

(3) Subject to the provisions of sub-section (4),—

(a) no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to Government or any public servant, whether imposed by any enactment or by any provision of law whatever, shall apply to the disclosure of information for the purpose of any inquiry (including the verification under section 13) under this Act; and

(b) the Government or any public servant shall not be entitled, in relation to any such verification or inquiry, to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any provision of law whatever in legal proceedings.

(4) No person shall be required or authorised by virtue of this Act to furnish any such information or answer any such question or produce any document—

(a) as might prejudice the security, or defence, or international relations, of India (including India's relations with the Government of any other country or with any international organisation), or the investigation or detection of crime; or

(b) as might involve the disclosure of proceedings of the Cabinet of the Union Government or of the Cabinet of the Government of any State or Union Territory or of any Committee of such Cabinet;

and for the purpose of this sub-section, a certificate issued by a Secretary to the Government certifying that any information, answer, or portion of a document, is of the nature specified in clause (a) and clause (b) shall be binding and conclusive:

Provided that the Lokpal may require any information or answer or portion of a document in respect of which a certificate is issued under this sub-section to the effect that it is of the nature specified in clause (a) to be disclosed to him in private for scrutiny and if on such scrutiny the Lokpal is satisfied that such certificate ought not to have been issued, he shall declare the certificate to be of no effect.

Search and
Seizure.

16. (1) If the Lokpal has reason to believe that any documents which, in his opinion, will be useful for, or relevant to, any inquiry under this Act, are secreted in any place, he may authorise any officer subordinate to him, or any officer of an investigating agency referred to in sub-section (2) of section 9, to search for and to seize such documents.

(2) If the Lokpal is satisfied that any document seized under sub-section (1) would be an evidence for the purpose of any inquiry under this Act and that it would be necessary to retain the document in his custody, he may so retain the said document till the completion of such inquiry:

Provided that where such document is seized before the commencement of such inquiry, the Lokpal shall return the document before the expiration of a period of one year from the date on which it is seized unless such inquiry has been commenced before such expiration.

Explanation.— For the purposes of this sub-section an inquiry in respect of a complaint shall be deemed to have been completed on the date on which the Lokpal closes the case under section 17.

(3) The provisions of the Code of Criminal Procedure, 1973, relating to searches shall, so far as may be, apply to searches under this section subject to modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the words "Lokpal or any officer authorised by him" were substituted.

2 of 1974.

Reports.

17. (1) If, after inquiry, in respect of a complaint, the Lokpal is satisfied,—

(a) that no allegation made in the complaint has been substantiated either wholly or partly, he shall close the case and intimate the complainant, the public man and the competent authority concerned accordingly;

(b) that all or any of the allegations made in the complaint have or has been substantiated either wholly or partly, he shall, by report in writing, communicate his findings and recommendations to the competent authority and intimate the complainant and the public man concerned about his having made the report.

(2) The competent authority shall examine the report forwarded to it under clause (b) of sub-section (1) and communicate to the Lokpal, within three months of the date of receipt of the report, the action taken or proposed to be taken on the basis of the report.

(3) If the Lokpal is satisfied with the action taken, or proposed to be taken, on the basis of his report under clause (b) of sub-section (1), he shall close the case and intimate the complainant, the public man and the competent authority concerned accordingly, but where he is not so satisfied and if he considers that the case so deserves he may make a

special report upon the case to the President and intimate the complainant, the public man and the competent authority concerned about his having made such report.

(4) The Lokpal shall present annually to the President a consolidated report on the administration of this Act.

(5) As soon as may be after, and in any case not later than ninety days from the receipt of a special report under sub-section (3), the President shall cause the same together with an explanatory memorandum to be laid before each House of Parliament.

Explanation.—In computing the period of ninety days referred to in this sub-section, any period during which Parliament or, as the case may be, either House of Parliament, is not in session shall be excluded.

MISCELLANEOUS

18. (1) Any information obtained by the Lokpal, or by any officer, employee, agency or person referred in section 9, in the course of, or for the purpose of, any verification or inquiry under this Act, and any evidence recorded or collected in connection therewith shall be treated as confidential and, notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall be entitled to compel the Lokpal, or any such officer, employee agency, person, to give evidence relating to such information or to produce the evidence so recorded or collected.

Secrecy of information.

1 of 1872.

(2) Nothing in sub-section (1) shall apply to the disclosure of the information or evidence referred to therein—

(a) for the purposes of this Act or for the purposes of any action or proceedings to be taken on any report under section 17; or

(b) for the purposes of any proceedings, for an offence of giving or fabricating false evidence, under the Indian Penal Code; or

(c) for such other purposes as may be prescribed.

45 of 1860.

19. (1) No complaint against a legislator or any proceedings (whether by way of verification, inquiry or otherwise) in respect of such complaint or any information in respect of such complaint or proceedings (including any evidence furnished, collected or recorded in relation to such complaint or in the course of or for the purpose of such proceedings) shall be disclosed or published by any person—

Penalty for disclosure or publication of information in respect of complaints against Legislators.

(a) where such complaint has been referred to the Lokpal under sub-section (2) of section 12, at any time before the dismissal of such complaint under sub-section (1) of section 13, or if the Lokpal conducts an inquiry into such complaint under section 14 at any time before he closes the case under clause (a) of sub-section (1) of section 17, or as the case may be, before he makes a report in respect of the case under clause (b) of that sub-section.

(b) in any other case, before the competent authority concerned discloses or announces in the prescribed manner the findings in respect of allegations made in such complaint:

Provided that nothing in this sub-section shall apply—

(i) to any disclosure for the purposes of this Act; or

(ii) to any disclosure or publication with respect to proceedings for any offence under this Act or any other law; or

(iii) to any disclosure or publication for such other purposes as may be approved by the competent authority concerned.

(2) Whoever contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) The provisions of this section shall have effect notwithstanding anything in any other section of this Act or in any other enactment.

Intentional insult or interruption to, or bringing in to disrepute Lokpal.

20. (1) Whoever intentionally offers any insult, or causes any interruption to the Lokpal while the Lokpal is making any verification conducting any inquiry under this Act, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Whoever, by words spoken or intended to be read, makes or publishes any statement, or does any other act, which is calculated to bring the Lokpal into disrepute, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(3) The provisions of sub-section (2) of section 199 of the Code of Criminal Procedure, 1973, shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (2) of the said section 199, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction of the Lokpal. 2 of 1974.

Power of Lokpal to try certain offences summarily.

21. (1) If, at any stage of a proceeding before the Lokpal, it appears to the Lokpal that any person appearing in such proceedings had knowingly or wilfully given false evidence or had fabricated false evidence with the intention that such evidence should be used in such proceeding the Lokpal may, if satisfied that it is necessary and expedient in the interests of justice that the person should be tried summarily for giving or fabricating false evidence, as the case may be, after giving the offender a reasonable opportunity of showing cause why he should not be punished for such an offence, try such offenders summarily, so far as may be, in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to imprisonment for a term which may extend to three months or to fine which may extend to five hundred rupees, or to both. 2 of 1974.

(2) When any such offence as is described in section 175, section 178, section 179 or section 180 of the Indian Penal Code is committed in the view of presence of the Lokpal, the Lokpal may cause the offender to be detained in custody and may, at any time on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to simple imprisonment for a term which may extend to one month, or to fine which may extend to five hundred rupees or to both. 45 of 1860.

(3) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the finding and the sentence.

(4) Any person convicted on a trial held under this section may appeal to the High Court and the provisions of Chapter XXIX of the Code of Criminal Procedure, 1973 shall so far as may be, apply to appeals under this section and the High Court may alter or reverse the finding or reduce or reverse the sentence appealed against. 2 of 1974.

Explanation.— For the purposes of this sub-section “High Court” means the High Court within the jurisdiction of which the person convicted ordinarily resides or carried on business or personally works for gain or the High Court within whose jurisdiction the order of conviction has been passed.

(5) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973. 2 of 1974.

Action in case of false complaint.

22. (1) Every person who wilfully or maliciously makes any complaint which he knows or has reason to believe to be false under this Act shall be punished with imprisonment for a term which may extend to one year and shall also be liable to fine which may extend to three thousand rupees.

(2) No Court, except a Court of Session shall take cognizance of an offence under sub-section (1).

(3) No such court shall take cognizance of such offence except on a complaint in writing made by the Public Prosecutor at the direction of the Lokpal and the Court of Session may take cognizance of the offence on such complaint without the case being committed to it.

(4) The Court of Session on conviction of the person making false complaint may award out of the amount of fine, to the public man against whom such false complaint has been made, such amount of compensation as it thinks fit.

(5) the provisions of this section shall have effect notwithstanding anything to the contrary contained in the Code of Criminal Procedure 1973.

2 of 1974.

23. (1) The President may, by notification in the official Gazette and after consultation with the Lokpal, confer on the Lokpal such additional functions in relation to the eradication of corruption as may be specified in the notification.

Conferment of additional functions on Lokpal.

(2) The President may, by order in writing and subject to such conditions or limitations as may be specified in the order, require the Lokpal to inquire into any allegations of misconduct specified in the order in respect of a public man and, notwithstanding anything contained in this Act, the Lokpal shall comply with such order.

(3) When the Lokpal is to make any inquiry under sub-section (1) or sub-section (2), the Lokpal shall exercise the same powers and discharge the same functions as he would in the case of any inquiry made on a complaint under this Act and the provisions of this Act shall apply accordingly.

24. The sum deposited by a complainant under section 12 shall,

Disposal of deposit.

(a) in a case where the complaint is dismissed under clause (c) of sub-section (1) of section 13 stand forfeited to the Central Government;

(b) if the Lokpal, for reasons to be recorded in writing, so directs, be utilised for compensating the public man complained against; and

(c) in any other case, be refunded to the complainant.

25. If the Lokpal is satisfied—

(a) that all or any of the allegations made in a complaint have or has been substantiated either wholly or partly; and

(b) that having regard to the expenses incurred by the complainant in relation to the proceedings in respect of such complaint and all other relevant circumstances of the case the complainant deserves to be compensated or rewarded,

Compensation or reward both payable in certain cases to complainant.

the Lokpal shall determine the amount which shall be paid to the complainant by way of such compensation or reward and the Central Government shall pay the amount or amounts so determined to the complainant.

26. (1) No suit, prosecution, or other legal proceeding, shall lie against the Lokpal, or against any officer, employee, agency or person referred to in section 9, in respect of anything which is in good faith done, or intended to be done, under this Act.

Protection.

(2) Save as otherwise provided in section 21, no proceedings or decision of the Lokpal shall be liable to be challenged, reviewed, quashed, or called in question in any court.

27. The Lokpal may, by general or special order in writing, and subject to such conditions and limitations as may be specified therein, direct that any powers conferred or duties imposed on him by or under this Act, (except the powers under the proviso to sub-section (3) of section 11, and the proviso to sub-section (4) of section 12, the power to dismiss a complaint under sub-section (1) of section 13, the powers to close cases and make reports under section 17 and the powers under section (21) may also be exercised or discharged by such of the officers, employees or agencies referred to in sub-section (1) or sub-section (2) of section 9, as may be specified in the order.

Power to delegate.

28. (1) The President may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for—

(a) the authorities required to be prescribed under sub-section (2) of section 2;

(b) the officers and employees who may be appointed under sub-section (1) of section 9;

(c) the terms and conditions of service of the officers, employees, agencies and person referred to in sub-section (3) of section 9;

(d) the form in which complaints may be made under section 12 and the fees, if any, which may be charged in respect thereof;

(e) the manner in which and the authorities or agencies with whom deposits shall be made under sub-section (4) of section 12 and the form in which certificates shall be furnished in respect of such deposits under sub-section (3) of section 12;

(f) the matters referred to in sub-clause (vi) of clause (b) of sub-section (1) of section 15; and

(g) any other matter which is to be or may be prescribed.

(3) Every rules made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Saving.

29. Nothing contained in this Act shall be construed as affecting the constitution of, or the continuance of functioning or exercise of powers by, any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952, before the commencement of this Act and no complaint shall be made under this Act in respect of any matter referred for inquiry to such Commission before such commencement.

60 of 1952.

Consequential amendment of Act No. 60 of 1952.

30. In section 3 of the Commissions of Inquiry Act, 1952, in sub-section (1), for the words, "The appropriate Government may", the words, brackets and figures "Subject to the provisions of sub-section (3) of section 10 of the Lokpal Act, 1995, the appropriate Government may" shall be substituted.

60 of 1952.

THE SCHEDULE

(See Section 4(2))

I, _____, having been appointed Lokpal, do swear in the name of God,

Solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law established,
that I will duly and faithfully and to the best of my ability, knowledge and judgement
perform the duties of my office without fear or favour, affection or ill-will.

STATEMENT OF OBJECTS AND REASONS

Corruption has become rampant today. It has corroded the texture of our body politic. It has already eaten into the vitals of our social fabric. All pervading corruptions, as existing now, if not hounded out, would spell disaster in our national life.

The fight against all kinds of corruption has, therefore, become a task of great urgency.

The Administrative Reforms Committee went in depth into this pernicious malady of our social life and submitted its recommendations as late as in 1966.

To forge an effective legislative weapon to combat corruption at high places including public servants to begin with, has become imperatively essential in today's context.

Hence this Bill.

NEW DELHI;
July 2, 1996

CHITTA BASU

FINANCIAL MEMORANDUM

Clause 4(1) and clause 8 (1) of the Bill provide respectively for the appointment of the Lokpal and Special Lokpals. Clause 6 (3) provides for the salary payable to Lokpal. Clause 6 (4) lays down that the Lokpal shall be entitled without payment of rent to the use of an official residence. Clause 6 (5) envisages that the allowances and pension payable to, and other conditions of service of, the Lokpal shall be such as may be prescribed by rules having regard to the allowances and pension payable to, and other conditions of service of, the Chief Justice of India. By virtue of clause 8(3), the provisions of clause 6(3), (4) and (5) apply in relation to the Special Lokpals also.

2. Sub-clause (1) of clause 9 provides that the Lokpal shall have the Secretary and such other officers and employees as may be prescribed by rules to assist him in the discharge of his functions. Sub-clause (2) of clause 9 empowers the Lokpal to secure, for the purpose of dealing with any complaints or any classes of complaints, the services of any officer or employees or investigating agency of the Central Government or a State-Government or the services of any other person or agency. Sub-clause (3) of clause 9 provides that the terms and conditions of service of the officers and employees of the Lokpal and of the officers, employees, agencies and persons referred to in sub-clause (2) of that clause, shall be such as may be prescribed by rules in consultation with the Lokpal. Clause 25 provides for payment of such compensation or reward by the Central Government to the complainants as the Lokpal may determine in certain cases.

3. It is not possible to visualise at this stage whether any need will arise for the appointment of one or more Special Lokpals. Further, the salaries and other conditions of service of the staff of the Lokpal are to be prescribed by rules after consultation with the Lokpal. It is, therefore, not possible to give precise details of the expenditure involved. It is, however, estimated that the Bill, when enacted, will involve a non-recurring expenditure of Rs. 20 lakh and a recurring expenditure of Rs. 30 lakh a year from the Consolidated Fund of India. In case it becomes necessary to construct a building to house the establishment of the Lokpal, additional expenditure, of non-recurring nature of the order of Rs. 50 lakh will also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 28 of the Bill gives power to the President *i.e.* the Central Government to make rules for carrying out the purposes of the Bill. The matters in respect of which rules may be made, *inter alia*, relate to the authorities to be prescribed under sub-section (2) of section 2, Officers and employees who may be appointed under sub-section (1) of section 9, etc. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 47 OF 1996

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

- | | |
|--|-------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 1996. | Short title. |
| 2. In the Preamble to the Constitution, after the word "DEMOCRATIC", the word "FEDERAL" shall be inserted. | Amendment of Preamble. |
| 3. In clause (1) of article 1 of the Constitution and thereafter, wherever it occurs in the Constitution, for the word "Union"; the word "Federation" shall be substituted. . | Amendment of Article 1. |
| 4. In the proviso to article 3 of the Constitution, for the words "for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired", the words "and the Legislature has consented to the proposals contained in the Bill by adopting a resolution to that effect by a simple majority and has forwarded such resolution to the President" shall be substituted. | Amendment of article 3. |

Amendment of
article 200.

5. In article 200 of the Constitution,—

(i) the words “or that he reserves the Bill for the consideration of the President” shall be omitted; and

(ii) second proviso shall be omitted.

Omission of
article 201.

6. Article 201 of the Constitution shall be omitted.

Substitution of
new article for
article 248.

7. For article 248 of the Constitution, the following article shall be substituted namely:—

Residuary
powers of
legislation.

“248. (1) The Legislature of any State has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or the Union List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.”.

Insertion of new
article 248A.

8. After article 248 of the Constitution, the following article shall be inserted, namely:—

Reformulation
of Seventh
Schedule and
real autonomy
to States.

“248A. (1) Within two years after the commencement of the Constitution (Amendment) Act, 1996 the Lists in the Seventh Schedule shall be reformulated by Parliament by law so as to give greater and real autonomy to States.

(2) Any such law as is referred to in clause (1) shall, in particular, provide for—

(a) exclusive power of the Centre in the matter of defence, foreign relations including foreign trade, communications, currency and related matters and multi-State industrial, power and irrigation projects except their execution and implementation which shall be left to the States;

(b) coordination and issue of general directions by the Centre in the matter of planning, fixing of prices, wages, industries, industrial licensing, etc.;

(c) exclusive power of the State in the matter of law and order and the police and certain categories of industries;

(d) non-interference into the affairs of the States by the Centre with its own specially created forces such as Central Reserve Police or any other police force which the Centre may raise.

Omission of
article 249.

9. Article 249 of the Constitution shall be omitted.

Insertion of new
article 263A.

10. After article 263 of the Constitution, the following new article shall be inserted, namely:—

Establishment
of National
Development
Council and
Planning
Commission.

“263A. (1) The President shall by order establish a National Development Council in which all the States and the Centre shall have representation in the manner to be defined in the order, and any such order shall also define the nature of duties to be performed by the Council and its organisation and procedure.

(2) The National Development Council shall determine the composition of the Planning Commission that may be constituted by the President by order and shall also define the nature of the duties to be performed by the Planning Commission and its organisation and procedure.”

Amendment of
article 270.

11. In article 270 of the Constitution, in clause (2), for the words “Such percentage, as may be prescribed”, the words “Seventy-five per cent.” shall be substituted.

Omission of
article 271.

12. Article 271 of the Constitution shall be omitted.

13. In article 272 of the Constitution,—
- (a) the words “if Parliament by law so provides” shall be deleted;
- (b) for the words “any part”, the words “seventy-five per cent.” shall be substituted;
- (c) for the words “such law”, the words “Parliament by law” shall be substituted.
14. For article 273 of the Constitution, the following article shall be substituted, namely:—
- “273. Seventy-five per cent, of the net proceeds in each year of export duty on jute and jute products shall be assigned to the States of Assam, Bihar, Orissa and West Bengal and, in lieu thereof, equivalent sums shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of these States.”**
15. After article 273 of the Constitution, the following new article shall be inserted, namely:—
- “273A. Seventy-five per cent, of the revenues levied and collected by the Union, which are divisible between the Union and the States, shall be distributed among the States.”**
16. In article 280 of the Constitution, in clause (3),—
- (i) for sub-clause (a), the following sub-clause shall be substituted, namely:—
- “(a) the proportion and the principles which would govern the allocation between the States of their respective shares of the seventy-five per cent, of the net proceeds of taxes which are to be or may be levied and collected by the Centre and are divisible between the Union and the States.”**
- (ii) after sub-clause (b), the following sub-clause shall be inserted, namely:—
- “(bb) the according of more powers to the States for imposing taxes;”**
17. In article 289 of the Constitution, clauses (2) and (3) shall be omitted.
18. Article 302 of the Constitution shall be omitted.
19. Article 312 of the Constitution shall be omitted.
20. In article 348 of the Constitution,—
- (i) the following clause shall be inserted after clause (1), namely:—
- “(1A) Notwithstanding anything in sub-clause (a) of clause (1) every person shall be entitled to submit a petition to and address the Supreme Court, during the course of proceedings on his petition, in any of the languages specified in the Eighth Schedule, and in such cases adequate arrangement shall be made by the Supreme Court for translation and in interpretation of such language in English:**
- Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by the Supreme Court.”;**
- (ii) clause (2), the words “with the previous consent of the President” shall be omitted.
21. For article 350 of the Constitution the following article shall be substituted, namely:—
- “350. (1) Every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union in any of the languages specified in the Eighth Schedule.**
- Amendment of article 272.
- Substitution of new article for article 273.
- Grants in lieu of export duty on jute and jute products.
- Insertion of new article 273A.
- Division of revenue amongst Union and States.
- Amendment of article 280.
- Amendment of article 289.
- Omission of article 302.
- Omission of article 312.
- Amendment of article 348.
- Substitution of new article for article 350.
- Representation in any language in Eighth Schedule.

(2) Every person shall be entitled to submit a representation in his mother tongue for the redress of any grievance to any officer or authority of the State in which he ordinarily resides.”.

Amendment of
article 360.

22. Clauses (3) and (4) of article 360 of the Constitution shall be omitted.

Amendment of
Seventh
Schedule.

23. In the Seventh Schedule to the Constitution,—

(a) in List I, entries 2A and 97 shall be deleted;

(b) in List II, the following entry shall be added in the end, namely:—

“67. Any other matter not enumerated in List I or List III including any tax not mentioned in either of those Lists.”.

STATEMENT OF OBJECTS AND REASONS

The question of Centre-State relations is crucial to the preservation of the unity and integrity of India within the framework of its linguistic, cultural and other diversities. The several linguistic and cultural groups that inhabit the country were united before Independence in their common aspiration for freedom from colonial bondage. They are today united in their common aspiration to build a prosperous life for themselves as well as to develop full national resources free from Imperialist interference and according to their respective socio-economic, linguistic and cultural needs. The struggle for realising these common aspirations makes it incumbent on the Governments at the Centre and the States, the political parties and the people at large to recognise the needs for unity in diversity.

The Constitution that emerged after Independence, though described as federal, was essentially unitary in character. It clothed the Centre with more powers at the expense of the autonomy of the States. That is why the "Concurrent" list has as many as 47 items. Since the adoption of the Constitution, the tendency had been to make greater inroads into the powers of States. This was facilitated by the fact that the same political party was in power at the Centre and in all the States, except for short durations and that too, in only a few States.

During the last two decades, while the demand has been growing for greater powers to the States so as to make States' autonomy real and effective, there have been persistent efforts to erode even the limited powers of the States and reduce the democratic functioning of the Governments there. The right of the people to manage their affairs even within the limited sphere allotted in the State List of the Constitution has been sought to be reduced to a farce. During the last ten years, the Centre's tentacles have further spread to the States even in the sphere of law and order, which is formally a State subject, through the creation of the Central Reserve Police, the Border Security Force, the Industrial Security Force, etc. By the 42nd Amendment to the Constitution, Education, which was State subject, was transferred to the Concurrent List. The process has now reached a stage when it threatens to reduce the States to the status of subordinate departments of the Centre under the aegis of the Central Home Ministry. The emergency immensely accelerated the process. The action taken in those twenty months sought to make it clear beyond doubt that the State Ministries and Legislatures faced the perpetual threat of being removed by hook or crook, if they did not toe the line of the Centre.

The issue of Centre-State relations has assumed a new significance in the changed political context. Different parties are in office in the different States and in the Centre. It is a part of the democratic aspirations of the people that federal principles should be correctly understood and applied so that this multiparty democratic pattern may survive.

In a country like India, with such diversities in race, religion, language and culture, national integration can be achieved only through conscious voluntary efforts. Devolution of powers may help ward off fissiparous tendencies instead of encouraging them. A strong and unified India can only be one in which the democratic aspirations and the distinctiveness of the people of the different States are respected and not treated with disdain. It is necessary to provide for strong States, but on no account there should be a weak Centre. The concept of strong States is not necessarily in contradiction to that of a strong Centre, once their respective spheres of authority are clearly marked out.

Hence the Bill.

NEW DELHI;
July 2, 1996

CHITTA BASU

FINANCIAL MEMORANDUM

Clause 20 of the Bill entitles a person to submit his petition to and address the Supreme Court in any of the languages specified in the Eighth Schedule to the Constitution and requires the Supreme Court to make arrangement for translation and interpretation of such languages into English. Similarly, clause 21 entitles a person to submit a representation to the Union in any of these languages. Arrangement for translation and interpretation of all these languages into English is likely to involve a recurring expenditure of about rupees ten lakhs from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five lakhs is also likely to be incurred.

S. GOPALAN,
Secretary-General.